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LIBERTY MUTUAL FIRE INSURANCE COMPANY

11 UNITED STATES DISTRICT COURT
12
13 NORTHERN DISTRICT OF CALIFORNIA

14 LARGO CONCRETE, INC., a California
Corporation; N.M.N. CONSTRUCTION,
15 INC., a California Corporation,

16 Plaintiffs,

17 v.

18 LIBERTY MUTUAL FIRE INSURANCE
COMPANY, a Massachusetts Corporation,
and DOES 1 through 100, inclusive.

19 Defendants.

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23 AND RELATED COUNTERCLAIM
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Case No. C07-04651 CRB (ADR)

Hon. Charles R. Breyer
[Complaint Filed: September 10, 2007]

**LIBERTY MUTUAL FIRE INSURANCE
COMPANY'S ADMINISTRATIVE
MOTION TO FILE EXHIBITS B AND F
TO THE GREG FARKAS DECLARATION
UNDER SEAL FOR *IN CAMERA* REVIEW**

Date: December 21, 2007
Time: 10:00 a.m.
Place: Courtroom 8

**ADMINISTRATIVE MOTION TO SEAL EXHIBITS B AND F TO THE GREG FARKAS
DECLARATION FOR THIS COURT'S *IN CAMERA* REVIEW**

Defendant and Counterclaimant Liberty Mutual Fire Insurance Company ("LMFIC") seeks, pursuant to Local Rules 7-11 and 79-5, to file under seal for this Court's *in camera* review Exhibits B and F to the Declaration of Greg Farkas ("Farkas Decl."), filed concurrently with Liberty Mutual Fire Insurance Company's Reply Brief in support of its Motion to Disqualify plaintiffs' counsel.¹

These exhibits are properly sealable because they are attorney billing records that contain confidential, attorney-client privileged and work product information concerning work that Craig Pynes performed for LMFIC and its affiliated companies while he was an associate at Kern & Wooley LLP. Clarke v. American Commerce Nat'l Bank, 974 F2d 127, 129 (9th Cir. 1992) ("[C]orrespondence, bills, ledgers, statements and time records which also reveal *the motive of the client* in seeking representation, litigation strategy, *or the specific nature of the services provided*, such as researching particular areas of law, fall within the privilege.") (emphasis added); Chaudhry v. Gallerizzo, 174 F3d 394, 402–403 (4th Cir. 1999) (motion to compel production of legal bills denied; legal bills revealed information regarding legal advice given, and thus were protected by attorney-client privilege).

Exhibit B to the Farkas Declaration is a report that Mr. Farkas prepared to show the fee and time entries billed for work performed by Mr. Pynes during the period January 1, 2003 through June 1, 2005. [Farkas Decl., ¶ 2.] This report contains specific descriptions of the tasks Mr. Pynes performed during this period. [*Id.*; see also Supplemental Declaration of Scott Sveslosky in Support of Liberty Mutual Fire Insurance Company's Reply Brief ("Sveslosky Decl."), at ¶¶ 9-10.]

¹ Counsel for LMFIC sought to obtain a stipulation from plaintiffs' counsel permitting the filing of the attached exhibits under seal, but was unable to obtain counsel's agreement. [Declaration of Ted C. Lindquist, III, at ¶ 3 and Exh. B.]

1 Exhibit F to the Farkas Declaration is a partially redacted electronic invoice dated
2 May 20, 2004, that Liberty Mutual Insurance Company ("LMIC") received electronically from
3 Kern & Wooley for work performed in the matter entitled Ashou v. Liberty Mutual Fire Insurance
4 Company. The unredacted portions of the invoice show that LMIC was billed 85.8 hours for work
5 Mr. Pynes performed in the Ashou matter. [Farkas Decl., ¶ 5; see also Sveslosky Decl., ¶¶ 4-7.]
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7 LMFIC submits Exhibits B and F to the Farkas Declaration for *in camera* review so
8 that the Court can determine for itself the scope of the work that Mr. Pynes performed for LMFIC
9 and its affiliated companies while at Kern & Wooley. However, because these exhibits contain
10 confidential, attorney-client privileged and work product information, they should be sealed, and
11 plaintiffs and their counsel should be barred from access to these records.
12

13 CONCLUSION

14 For all of the foregoing reasons, Liberty Mutual respectfully requests that the Court
15 grant its Motion and permit Exhibits B and F to the Farkas Declaration to be filed under seal for
16 the limited purpose of this Court's *in camera* review of those exhibits.
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18 Dated: December 14, 2007

19 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

20
21 By



FRANK FALZETTA

22 Attorneys for Defendant and Counterclaimant
23 LIBERTY MUTUAL FIRE
24 INSURANCE COMPANY
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